that any business information submitted to the Commission is not entitled to confidential treatment, the submitter will be permitted to withdraw the tender unless it is the subject of a request under the FOIA or of judicial discovery proceedings.

(5) Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the Commission;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(b) Any portion of a record that reasonably can be segregated from the balance of the record shall be provided to any individual requesting such record after deletion of the portions which are exempt. The amount of information de-

leted and the exemption under which the deletion is made shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by an exemption in paragraph (a) of this section under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made.

(c) If a requested record is one of another government agency or deals with subject matter to which a government agency other than the Commission has exclusive or primary responsibility, the request for such a record shall be promptly referred by the Commission to that agency for disposition or guidance as to disposition.

(d) Nothing in this part authorizes withholding of information or limiting the availability of records to the public, except as specifically provided; nor is this part authority to withhold information from Congress.

[73 FR 54257, Sept. 18, 2008, as amended at 75 FR 49814, Aug. 16, 2010]

§ 9405.6 Discretionary release of exempt records.

The Commission may, in its discretion, release requested records despite the applicability of the exemptions in § 9405.5, if it determines that it is in the public interest and that the rights of third parties would not be prejudiced. The Executive Director will have the authority to determine that requested records may be released despite otherwise applicable exemptions.

§ 9405.7 Requests for records.

(a) Requests for copies of Commission records under the FOIA shall be made in writing and addressed to the Chief FOIA Officer, U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005. The request shall reasonably describe the records sought with sufficient specificity with respect to names, dates, and subject matter to permit the records to be located. A requester will be promptly advised if the records cannot be located on the basis of the description given and that further identifying information must be provided before the request can be satisfied.